IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

1. Criminal Misc. Application No. 285 of 2006

1. Sadiq Zafar S/o Iltfat Hussain
2. Qazi Suhel Zafar S/o Iltfat Hussain
3. Sabana W/o Sadiq Zafar
4. Gazia D/o Iltfat Hussain
5. Kudsiya D/o Iltfat Hussain
   All R/o 16-A/202 Kapadiya Nagar
   C.S.T. Kurla
   Western Mumbai ... Applicants

Vs

1. State of Uttaranchal
2. Rumana Sabnam W/o Qazi Suhel Zafar
   D/o Bakhtiyaruddin
   R/o H-99 Shivalik Nagar
   B.H.E.L. Ranipur
   P.S. Ranipur
   District Haridwar ... Respondents

With

2. Criminal Misc. Application No. 296 of 2006

Qazi Suhel Zafar S/o Qazi Iltefat Husain
R/o 16/A/202 Kapadiya Nagar
C.S.T. Road Kurla
(West), P.S. Kurla, Mumbai
now presently resides at Kuwait Flour Mill
and Bakeries, Sabhan Branch
P.W. Box 25544
Safat 13116, State of Kuwait ... Petitioner

Vs

1. Principal Judge, Family Court, Haridwar
2. Rumana Shabnam D/o Bakhtiyaruddin
   R/o H-99 Shivalik Nagar
   Phase – 2 B.H.E.L. Ranipur
   P.S. Ranipur, District Ranipur ... Opp. Parties

With

3. Criminal Misc. Application No. 429 of 2006

Qazi Suhel Zafar S/o Qazi Iltefat Husain
R/o 16/A/202 Kapadiya Nagar
C.S.T. Road Kurla
(West), P.S. Kurla, Mumbai ... Petitioner

Vs

1. State of Uttaranchal
2. Rumana Shabnam D/o Bakhtiyaruddin
R/o H-99 Shivalik Nagar
Phase – 2 B.H.E.L. Ranipur
P.S. Ranipur, District Ranipur ... Opp. Parties

Sri S.K. Mandal, learned counsel for the petitioners
Sri Asif Ali, learned counsel for the respondent No. 2
Learned A.G.A. for the State

Hon'ble B.C. Kandpal, J.

By way of the petition No. 285 of 2006, the petitioners have challenged the order dated 25.11.2005 by which they have been summoned to face the trial under Sections 403, 406 I.P.C. in Criminal Complaint Case No. 183 of 2005 Rumana Sabnam Vs Qazi Suhel Zafar & others pending in the court of Judicial Magistrate/IInd Upper Civil Judge (J.D.) Haridwar.

2. By way of the petition No. 296 of 2006, the petitioner – Qazi Suhel Zafer has prayed for quashing the Criminal Complaint Case No. 209 of 2003 Smt. Rumana Sabnam Vs Qazi Suhel Zafar & others under Section 125 Cr.P.C. pending in the court of Principal Judge, Family Court, Haridwar.

3. By way of the petition No. 429 of 2004, the petitioner – Qazi Suhel Zafer has prayed for quashing the Criminal Case No. 3481 of 2004 State Vs Qazi Suhel Zafar & others under Sections 498-A, 323, 504, 506 I.P.C. and 3/4 Dowry Prohibition Act pending in the court of Chief Judicial Magistrate, Haridwar.

4. All these matters relate to the matrimonial dispute between Rumana Sabnam and Qazi Suhel Zafer & others.

5. The pleadings have been exchanged. Heard Sri S.K. Mandal, learned counsel for the petitioner, Sri Asif Ali, learned counsel for the respondent No. 2 – Smt. Rumana Sabnam, learned A.G.A. for the State and perused the record.

6. At the time of hearing of this case, both the parties have entered into compromise and they are not intending to continue the cases pending against them relating to the matrimonial dispute in various courts. Both the parties have filed the compromise deed, which was sent to the Additional Registrar of this Court for verification.

7. In compliance of the order passed by this Court both the parties have appeared before the Additional Registrar on 11.08.2006. The Additional Registrar accordingly verified the compromise deed. Both the parties accepted the contents of the compromise deed before the Additional Registrar.

8. In view of the compromise deed field before this Court, both the parties have agreed that they want to live separately and the cases pending between the parties relating to the matrimonial dispute in various courts shall be withdrawn by them.

9. In view of the settlement arrived at between the parties, I am of the view that the petitions are liable to be disposed of, in the light of the compromise arrived at between the parties as well as in the light of the direction issued by Hon'ble Supreme Court reported in ***2003 SCC (Criminal) page 848 B.S. Joshi and others Vs. State of Haryana & another*** wherein it is observed that:-

"There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is ever likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code."

In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers u/s 482 of the Code."

10. I am of the view that the petitions filed under Section 482 Cr.P.C. should be disposed of in the light of the aforesaid decision.

11. In the petition No. 285 of 2006, the order dated 25.11.2005 by which the petitioners have been summoned to face the trial under Sections 403, 406 I.P.C. in Criminal Compliant Case No. 183 of 2005 Rumana Sabnam Vs Qazi Suhel Zafar & others is hereby quashed.

12. In the petition No. 296 of 2006, the Criminal Complaint Case No. 209 of 2003 Smt. Rumana Sabnam Vs

Qazi Suhel Zafar & others under Section 125 Cr.P.C. is hereby quashed.

13. In the petition No. 429 of 2004, the Criminal Case No. 3481 of 2004 State Vs Qazi Suhel Zafar & others under Sections 498-A, 323, 504, 506 I.P.C. and 3/4 Dowry Prohibition Act is also hereby quashed.

14. Accordingly, all the petitions under Section 482 Cr.P.C. are disposed of in terms of the compromise arrived at between the parties.

(B.C. Kandpal, J.)

18.08.2006
ASWAL